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this Memorandum Decision shall not be
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**IN THE
COURT OF APPEALS OF INDIANA**

DAWN VERDEGAN,)	
)	
Appellant-Defendant,)	
)	
vs.)	No. 45A05-0601-CR-50
)	
STATE OF INDIANA,)	
)	
Appellee-Plaintiff.)	

APPEAL FROM THE LAKE SUPERIOR COURT
The Honorable Diane R. Boswell, Judge
Cause No. 45G03-0502-FC-18

January 18, 2007

MEMORANDUM DECISION - NOT FOR PUBLICATION

KIRSCH, Chief Judge

Dawn Verdegan (“Verdegan”) pled guilty to two counts of theft;¹ one as a Class C felony and the other as a Class D felony. She now appeals claiming that her sentence was inappropriate.

We affirm.

FACTS AND PROCEDURAL HISTORY

On November 22, 2005, Verdegan pled guilty to two counts of theft. Specifically, Verdegan admitted that for two years while working as bookkeeper for Hawk Enterprises she knowingly exerted unauthorized control over the money of Hawk Enterprises by writing at least forty checks to herself totaling \$212,000.00. Verdegan also admitted that she had knowingly or intentionally exerted unauthorized control over money of the Lake County Childcare Development Fund Program.

Finding no mitigator and finding as aggravators that she violated her position of trust as a bookkeeper for Hawk Enterprises and her character for dishonesty, the trial court sentenced her to four years in prison for the Class C felony, and a concurrent three years for the Class D felony. The trial court later modified Verdegan’s sentence to one year executed and three years of probation for the Class C felony and one year executed and six months of probation for the Class D felony with both sentences running concurrently. Verdegan now appeals.

¹ See IC 35-43-4-2. Verdegan’s two counts of theft arose under two separate cause numbers: The Class C felony arose under cause no. 45G03-0502-FC-18, and the Class D felony theft arose under cause no. 45G03-0510-FD-109.

DISCUSSION AND DECISION

Verdegan asserts that the trial court failed to give any mitigating weight to her guilty plea, remorse, and lack of a criminal history. The trial court is afforded broad discretion in sentencing including the finding of aggravating and mitigating circumstances. *Glass v. State*, 801 N.E.2d 204, 207 (Ind. Ct. App. 2004). When a defendant offers mitigating circumstances the trial court is not required to find those circumstances mitigating nor explain why it did not find them to be mitigating. *Patterson v. State*, 846 N.E.2d 723, 726 (Ind. Ct. App. 2006). This court must afford the trial court great deference in its assessment of the proper weight to be given the proffered mitigating circumstance, and may only set the sentence aside for a manifest abuse of that discretion. *Id.*

First, Verdegan asserts that the trial court should have found her guilty plea as a mitigating factor. We do not agree. The significance of a guilty plea will vary from case to case. *Francis v. State*, 817 N.E.2d 235, 238 n.3 (Ind. 2004). Verdegan was originally charged with three other Class C felonies and one other Class D felony. The evidence against Verdegan was overwhelming. As part of the plea agreement, the State dropped the remaining charges against Verdegan. It was within the trial court's discretion to find that Verdegan's guilty plea was a pragmatic decision that did not substantially benefit the State, such that the trial court did not have to list it as a mitigator. *See Wells v. State*, 836 N.E.2d 475, 479 (Ind. Ct. App. 2005), *trans. denied*.

Next, Verdegan claims that the trial court erred in failing to recognize her statements of apology and remorse as mitigators. Again, we do not agree. While expressions of remorse may be considered as a valid mitigating factor, their omission

does not always undermine the sentence. *Scott v. State*, 840 N.E.2d 376, 383 n.7 (Ind. Ct. App. 2006), *trans. denied*. Instead, it is the sincerity of and circumstances surrounding the remorseful statement that suggest its mitigating weight. *See Banks v. State*, 841 N.E.2d 654, 659 (Ind. Ct. App. 2006), *trans. denied*. While Verdegan apologized for stealing from Hawk Enterprises, she also stated that the Vice President of Hawk Enterprises explained to her how to conceal the money and, at the time, it seemed to her the only way to save her home from foreclosure. *Tr.* at 34. Further, Verdegan's crimes took place on numerous occasions over a two-year period and amounted to over two hundred thousand dollars in stolen funds. The trial court may have deemed her remorse as more likely indicative of her being caught than of her actual sorrow. In any event, it was within the trial court's discretion not to find Verdegan's remorse as a mitigating factor.

Finally, Verdegan claims her lack of a criminal history was improperly omitted as a mitigator from the trial court's sentencing statement. Without reaching that question, we hold that any error in failing to credit her lack of criminal history was harmless. Verdegan fails to show it would have resulted in a reduction to her advisory yet suspended sentence. *See Haddock v. State*, 800 N.E.2d 242, 245 (Ind. Ct. App. 2003) (trial court was only required to explain a deviation from the presumptive (now advisory) sentence.) Moreover, the aggravators that the trial court found offset her lack of criminal history. The trial court did not abuse its discretion in sentencing Verdegan.

Affirmed.

RILEY, J., and FRIEDLANDER, J., concur.